

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Andrew Slater	Team: Team # 4	CCRB Case #: 200900800	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 01/18/2009 7:15 PM	Location of Incident: 183rd Street and Jerome Avenue; 46th Precinct Stationhouse	Precinct: 46	18 Mo. SOL 7/18/2010	EO SOL 7/18/2010	
Date/Time CV Reported Mon, 01/19/2009 5:42 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 01/19/2009 5:42 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Rafael Perdomo	21268	942338	046 PCT
3. POM Joseph Murphy	25384	946058	046 PCT
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Harry Delacruz	20377	941272	046 PCT
2. POM Anthony Fiol	18027	946991	046 PCT
3. SGT Jose Camacho	02790	914703	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers used physical force against § 87(2)(b) and § 87(2)(b) at 183rd Street and Jerome Avenue.	
B. An officer	Discourtesy: An officer spoke rudely to § 87(2)(b) at 183rd Street and Jerome Avenue.	
C. POM Joseph Murphy	Discourtesy: PO Joseph Murphy spoke obscenely to § 87(2)(b) at 183rd Street and Jerome Avenue and at the 46th Precinct Stationhouse.	
D. POM Joseph Murphy	Force: PO Joseph Murphy used physical force against § 87(2)(b) at 183rd Street and Jerome Avenue.	

Officer(s)	Allegation	Investigator Recommendation
E.POM Rafael Perdomo	Discourtesy: PO Rafael Perdomo spoke obscenely to § 87(2)(b) at East 183rd Street and Jerome Avenue in the Bronx.	
F.POM Rafael Perdomo	Force: Rafael Perdomo used physical force against § 87(2)(b) at 183rd Street and Jerome Avenue.	
G. Officers	Force: Officers used physical force against § 87(2)(b) at 183rd Street and Jerome Avenue.	
H. An officer	Force: An officer used physical force against § 87(2)(b) at 183rd Street and Jerome Avenue.	
I. Officers	Force: Officers used physical force against § 87(2)(b) at 183rd Street and Jerome Avenue.	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB's Call Processing system on January 19, 2009.

At approximately 7:15 PM on January 18, 2009, § 87(2)(b) § 87(2)(b) old, and § 87(2)(b) § 87(2)(b) old, were arrested during a melee in the vicinity of 183rd Street and Jerome Avenue in the Bronx involving more than ten officers and approximately thirty to fifty civilians, including § 87(2)(b) and § 87(2)(b). The following allegations resulted from this incident:

Allegation A – Force: Officers used physical force against § 87(2)(b) and § 87(2)(b) at 183rd Street and Jerome Avenue.

Allegation B – Discourtesy: An officer spoke rudely to § 87(2)(b) at 183rd Street and Jerome Avenue.

§ 87(2)(b), § 87(2)(g)

Allegation C - Discourtesy: PO Joseph Murphy spoke rudely to § 87(2)(b) at 183rd Street and Jerome Avenue and at the 46th Precinct Stationhouse

§ 87(2)(b), § 87(2)(g)

Allegation D - Force: PO Joseph Murphy used physical force against § 87(2)(b) at 183rd Street and Jerome Avenue.

§ 87(2)(b), § 87(2)(g)

Allegation E - Discourtesy: PO Rafael Perdomo spoke rudely to § 87(2)(b) at 183rd Street and Jerome Avenue.

§ 87(2)(b), § 87(2)(g)

Allegation F - Force: PO Rafael Perdomo used physical force against § 87(2)(b) at 183rd Street and Jerome Avenue.

§ 87(2)(b), § 87(2)(g)

Allegation G - Force: Officers used physical force against § 87(2)(b) at 183rd Street and Jerome Avenue.

§ 87(2)(b), § 87(2)(g)

Allegation H - Force: An officer used physical force against § 87(2)(b) § 87(2)(b) at 183rd Street and Jerome Avenue.

Allegation I - Force: Officers used physical force against § 87(2)(b) § 87(2)(b) at 183rd Street and Jerome Avenue.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Results of Investigation

Civilian Statement(s)

Complainant/victim: § 87(2)(b)

- § 87(2)(b) was § 87(2)(b) old at the time of the incident. He is a 5'11", 180-pound Hispanic male.

CCRB Testimony

§ 87(2)(b) initial statement to the CCRB's Call Processing System on January 19, 2009 (see **Enclosure 5**), statement to medical personnel at § 87(2)(b) Hospital on § 87(2)(b) (see **Enclosure 17**), and a phone statement on January 23, 2009 (see **Enclosure 6**) were consistent with his official statement to the CCRB on February 23, 2009 (see **Enclosure 7**), except where noted.

At approximately 7:15 PM On January 18, 2009, § 87(2)(b) went to the Kennedy Fried Chicken at the corner of Grand Avenue and North Street in the Bronx, for a meeting of the "ENT", a group that organizes parties. § 87(2)(b) observed § 87(2)(b) holding a pool stick. An individual passed § 87(2)(b) and words were exchanged. A patrol car arrived at the scene. PO1, described as a white male, average build with black hair and wearing a uniform, exited the vehicle and walked towards § 87(2)(b) who was still holding the pool stick. § 87(2)(b) did not witness how § 87(2)(b) was arrested, but did observe that § 87(2)(b) was on the ground, handcuffed, and trying to resist the additional officers that had responded to the scene. PO Murphy, identified by his nametag and described as a white male, 5'10", slim, with dark hair and in uniform, stated to everyone at the location, "Get the fuck off the corner." § 87(2)(b) did not say that an officer used any discourteous language when giving orders in his initial statements. § 87(2)(b) began walking and PO Murphy pushed him in the back twice.

PO Perdomo, who was identified by his nametag and described as a bald Hispanic male, 250 lbs, about 5'10" and in uniform, stated to § 87(2)(b) "You know what motherfucker? Come here." § 87(2)(b) did not say that PO Perdomo used any discourteous language in his initial statements. PO Perdomo grabbed the back of § 87(2)(b)'s leather jacket and guided him to an unmarked blue van. PO Perdomo pushed § 87(2)(b) face first against the middle of the van. In his phone statement § 87(2)(b) said that two officers placed him against the van. While against the van, § 87(2)(b) felt an officer knee him once in the buttocks. He did not see the officer. An officer also kicked him in the right leg once. § 87(2)(b) did not see the officer. He turned his face, and observed PO4, a Hispanic female, slim with light complexion, black hair and in uniform running towards him with a nightstick in her hand. PO4 attempted to strike § 87(2)(b) with the nightstick and missed. Officers surrounded § 87(2)(b) PO Perdomo pulled § 87(2)(b)'s right arm up towards the shoulder while handcuffing him. § 87(2)(b) was placed in the van and did not witness the officers' interaction with § 87(2)(b) PO Delacruz, as identified by his nametag and described as a tall slim Hispanic male, with dark complexion and in uniform was seated in the van throughout the incident.

At the stationhouse, seated in a room, § 87(2)(b) asked PO Murphy about his leather jacket and he replied, "I don't give a fuck about your jacket." § 87(2)(b) did not say that PO Murphy used any discourteous language in his initial statements.

As a result of PO Perdomo pulling his arm up towards the shoulder while handcuffing him, § 87(2)(b) sustained pain to his right shoulder.

Victim: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) was § 87(2)(b) old at the time of the incident. § 87(2)(b)

CCRB Testimony

§ 87(2)(b) § 87(2)(b) made an official statement at the CCRB on February 23, 2009 (see **Enclosure 8**).

§ 87(2)(b) was also a § 87(2)(b) that met in the vicinity of 183rd and Jerome Avenue in the Bronx at approximately 7:15 PM on January 18, 2009. § 87(2)(b) indicated that the dispute at 183rd Street and Jerome Avenue involving the Sugilios was physical.

Many officers arrived at the scene and instructed the crowd to disperse. § 87(2)(b) complied initially by walking. However, he then observed that § 87(2)(b) was being handcuffed against an NYPD van surrounded by ten officers in uniform. § 87(2)(b) approached PO1, who he described as a white male, slim, 5'11", in his 20's, with short blond hair and in uniform. § 87(2)(b) asked PO1 why § 87(2)(b) was being arrested. PO1 did not reply. Instead, PO1 held § 87(2)(b) by the top of his jacket, and it felt like he was trying to turn him around. PO1 then swung at him towards his face with his right arm. PO1 missed § 87(2)(b)'s face. § 87(2)(b) could not describe whether this was a punch or open hand swing. § 87(2)(b) pushed PO1 away from him by placing both hands against his chest. All the officers that were with § 87(2)(b) ran towards § 87(2)(b) who was standing five feet away from § 87(2)(b) at this time. The officers tried to take § 87(2)(b) down to the ground. § 87(2)(b) could not describe the specific actions taken by the officers, the amount of force used against him or the chronology of the force. He stated that, "It's a flashback that I don't want to remember." He did recall that PO2, who he described as a white male in uniform, chubby, 5'5", with brown hair, kned him in the stomach, and kicked at his legs several times. The other officers were "most likely" hitting him, kicking him and punching him. PO1 had his knee on his neck and PO2 handcuffed him. § 87(2)(b) estimated there were more than 10 officers at the scene but less than 20, including three Hispanic females.

§ 87(2)(b) sustained minor bruising to his right leg which he did not document. § 87(2)(b) was taken to the 46th Precinct, then Central Booking, where his case was dismissed. § 87(2)(b) listed his girlfriend, § 87(2)(b) as having witnessed the incident, and provided her contact information.

Attempts to Schedule Photo Array

The CCRB sent letters to § 87(2)(b)'s listed address requesting § 87(2)(b) come to the CCRB to view a photo array on September 28 and October 6, 2009. The letters were not returned to the CCRB. On October 6, 2009, the CCRB received a voicemail from a woman identifying herself as § 87(2)(b)'s mother – arrest documents state that her name is Anastacia Lora – and asking to be called back. When the CCRB called her number on October 6, 16, and 23, 2009, the subscriber was not receiving calls. On October 16, 2009, the CCRB called § 87(2)(b) at another phone number where he had been reached in February, but a woman answered and said that she had recently obtained the phone number and did not know anyone named § 87(2)(b) § 87(2)(b). Whitepages.com did not have any listings for § 87(2)(b) § 87(2)(b) or any Villalonas at his listed address. Anastacia Lora is listed in the databases at the same address as was listed for § 87(2)(b) but the listed phone number for that address was disconnected when it was called on November 12, 2009 (see **Enclosure 25**).

Witness: § 87(2)(b)

- § 87(2)(b) the older sister of § 87(2)(b) and § 87(2)(b) provided a phone statement on March 12, 2009 (see **Enclosure 9**).

§ 87(2)(b) confirmed that police officers were called at approximately 7:30 PM on January 18, 2009 because of a dispute in which her brothers were involved. She made allegations that an officer used a discourtesy to her, and that officers used force against her and her family: § 87(2)(b) and § 87(2)(b). She did not make any statements about § 87(2)(b) or § 87(2)(b).

Witness: § 87(2)(b)

§ 87(2)(b) the girlfriend of § 87(2)(b) § 87(2)(b) provided a phone statement on March 12, 2009 (see **Enclosure 10**).

§ 87(2)(b) corroborated that there was a dispute at 183rd Street and Jerome Avenue at approximately 7:15 PM, and police were called. She corroborated that officers slammed § 87(2)(b) against an NYPD van, and that § 87(2)(b) was taken to the ground and placed in handcuffs. She did not corroborate any discourtesy allegations or force allegations.

Attempts to Contact Civilians

The members of the § 87(2)(b) family were uncooperative. On March 12, 2009, § 87(2)(b) scheduled an interview for her family on March 23, 2009, but they did not appear for their scheduled interview, and did not call to explain their absence. On April 3, 2009, the CCRB spoke with the mother, § 87(2)(b) sister, § 87(2)(b) and brother, § 87(2)(b) and though they were reluctant to provide a statement because they claimed that officers had threatened to put § 87(2)(b) and § 87(2)(b) in jail if they filed a complaint, an interview was scheduled for April 7, 2009. They did not appear for that interview and did not call to explain their absence.

Izmar § 87(2)(b) and § 87(2)(b) who were arrested during the incident, were unavailable. They were called on the phone number listed on the arrest report on March 12, 2009, but the phone number was no longer in service. The address listed on the address reports was for an apartment building, not a specific apartment, and databases did not have a listing for them at that address.

NYPD Statement(s):

Subject Officer: PO Joseph Murphy (see **Enclosure 11**)

- PO Murphy is a § 87(2)(b).
- On January 18, 2009, PO Murphy worked from 5:30 PM to 2:05 AM. He was dressed in uniform, assigned as the sergeant operator for Sgt. Camacho, in an unmarked van, 8610, which is a black Ford van.

Memo book

In his memo book, PO Murphy noted that at 7:40 PM on January 18, 2009, he arrived at 183rd Street and Jerome, at 7:55 PM he had one person arrested at § 87(2)(b), and at 10:23 PM he released property – keys and earphones – to the arrestee’s father.

Complaint Report and Arrest Report

On January 18, 2009, PO Murphy wrote a complaint report and arrest report for § 87(2)(b) charging her with the misdemeanor of obstructing government administration at 7:55 PM in front of 2120 Ryer Avenue in the Bronx. PO Murphy stated that § 87(2)(b) refused to obey with his instructions to disperse, and upon trying to place her under arrest, she fought by flaring her arms and kicking.

CCRB Testimony

PO Joseph Murphy was interviewed at the CCRB on September 22, 2009.

At approximately 7:15 PM on January 18, 2009, there was a 10-85, officer needing assistance, called at East 183rd Street and Jerome Avenue in the Bronx. The call was about an officer, PO Murphy did not recall who, in a fight with a group of males. PO Murphy responded to the location, where there was a large crowd of over 50 people filling the entire block, and officers made numerous arrests. He arrested one individual, § 87(2)(b) at the 46th Precinct stationhouse. She came to the precinct, caused a disturbance, and he arrested her.

PO Murphy did not recall ever saying, “Get the fuck off the corner” or “I don’t give a fuck about your jacket”. PO Murphy recalled that he assisted an officer, who he could not recall, arrest an individual, who he could not recall, by holding his arms. He did not recall interacting

with § 87(2)(b) or § 87(2)(b) § 87(2)(b) nor did he witness any of the allegations they made occur.

Subject Officer: RAFAEL PERDOMO (see **Enclosure 12**)

- PO Perdomo is a § 87(2)(b).
- On January 18, 2009, PO Perdomo worked from 5:30 PM to 2:05 AM. He was assigned to impact, working with PO Soriano and PO Delacruz, dressed in uniform, assigned as the operator of a marked motor vehicle.

Memo Book

In his memo book, he noted at 7:05 PM an arrest at § 87(2)(b), at 7:10 PM one male stopped at § 87(2)(b) and then one arrested there at 7:16 PM, and then at 7:20 PM he responded to an officer in need of assistance at East 183rd Street and Jerome. At 7:45 PM he noted that he had arrived at the scene. At 8:10 PM he noted that he was resuming patrol.

CCRB Testimony

PO Perdomo was interviewed at the CCRB on September 22, 2009.

PO Perdomo's account of the incident was consistent with that of PO Murphy, and he too denied witnessing any of the allegations of force or discourtesy. He denied saying, "You know what motherfucker? Come here." He only recalled that officers, whose identities and descriptions he could not recall, handed him a handcuffed individual, and PO Perdomo placed that individual in the van without incident.

Witness Officer: Sgt. JOSE CAMACHO (see **Enclosure 13**)

- Sgt. Camacho is a § 87(2)(b).
- On January 18, 2009, Sgt. Camacho worked from 5:15 PM to 2:12 AM. He was assigned as impact supervisor, working in a marked police van, 4576, with PO Pichardo, PO Montenez, and PO Pellerano. He was dressed in uniform.

Memo book

The only relevant entry in Sgt. Camacho's memo book was at 7:35 PM, when he noted that he responded to 183rd Street and Jerome.

CCRB Testimony

Sgt. Jose Camacho was interviewed at the CCRB on October 7, 2009.

Sgt. Camacho's account of the incident was essentially consistent with PO Murphy's and PO Perdomo's. He denied placing anyone in handcuffs and denied witnessing of the force or discourtesy allegations. He engaged in crowd control during the incident and verified the arrests.

Witness Officer: PO ANTHONY FIOI (see **Enclosure 14**)

- PO Fiol is a § 87(2)(b).
- On January 18, 2009, PO Fiol worked from 5:30 PM to 2:05 AM. He was assigned to foot post 30-32, working with PO Myers. He was dressed in uniform.

Memo book

PO Fiol noted in his memo book at 7:46 PM that two people were under arrest at the corner of East 183rd Street and Jerome Avenue. At 8:00 PM he noted that he arrived at the 46th Precinct and started arrest processing. At 8:05 he did the arrest processing. He wrote down the narrative of the arrest: at approximately 7:36 PM, the defendant § 87(2)(b) was at East 183rd St and Jerome and started fighting with an unknown complainant/victim. § 87(2)(b) had a pool stick in his hand and charged the complainant/victim and was temporarily held back by his mother and sister. PO Fiol and PO Myers removed the stick from § 87(2)(b) and apprehended him despite his resistance, which included kicking, pulling away, and moving his arms. On the fly page, he noted

at 7:35 PM he arrested § 87(2)(b) a § 87(2)(b)-old Dominican male with braids for charging at unknown c/v with pool stick. PO Fiol and PO Myers attempted to restrain § 87(2)(b) who resisted arrest, flailing arms and kicking. After a crowd gathered, additional units assisted, including Sgt. Camacho. He also noted that he had arrested a Hispanic male with a Caesar haircut, § 87(2)(b) who failed to listen to police orders to disperse, told officers, “don’t talk to me like that”, and was pushing and shoving, and failed to leave, and he was arrested.

Complaint Reports and Arrest Reports

PO Fiol wrote complaint reports and arrest reports for § 87(2)(b) and § 87(2)(b) § 87(2)(b) (misspelled as Brian Billalona). PO Fiol stated that, at 7:46 PM on January 18, 2009, § 87(2)(b) was observed acting disorderly on the corner of 183rd Street and Jerome Avenue by fighting and menacing an unknown victim with a pool stick. § 87(2)(b) flailed his arms, preventing officers from arresting him. In addition, he gave an officer a false date of birth after he was instructed that was illegal. PO Fiol stated that at 7:44 PM, § 87(2)(b) was observed acting disorderly on the corner of 183rd Street and Jerome. § 87(2)(b) was fighting and acting violently toward officers. He flailed his arms while pushing and shoving officers in an attempt to prevent being arrested.

CCRB Testimony

PO Fiol was interviewed at the CCRB on September 29, 2009.

PO Fiol was consistent with the other officers interviewed regarding the incident to which he responded. He provided a narrative of arresting § 87(2)(b) consistent with his memo book. He denied witnessing the arrest of § 87(2)(b) or § 87(2)(b).

Witness Officer: PO HARRY DELACRUZ (see **Enclosure 15**)

- PO Delacruz is a § 87(2)(b).
- On January 18, 2009, PO Delacruz worked from 5:30 PM to 2:05 AM. PO Delacruz was assigned to Operation Impact. He believed he was working with Sgt. Camacho and PO Perdomo but could not recall with certainty. He was dressed in uniform. He was assigned to a marked motor vehicle.

Memo book

PO Delacruz did not have any entries in his memo book regarding this incident, and did not have any entries between 7:00 PM and 8:30 PM.

CCRB Testimony

PO Harry Delacruz was interviewed at the CCRB on October 7, 2009.

PO Delacruz’ account was essentially consistent with the other officers. He denied witnessing the allegations of discourtesy or force, and denied witnessing the arrests of § 87(2)(b) or § 87(2)(b) § 87(2)(b).

Additional Officers Not Interviewed

The CCRB obtained the memo books of all the officers who, according to roll call and the Sprint, responded to the incident location. None of the officers’ memo books indicated that they participated in arresting § 87(2)(b) or that they witnessed the arrest of § 87(2)(b) (see **Enclosure 16**).

Medical Records (see **Enclosure 17**)

§ 87(2)(b) did not ask for medical treatment when he was arrested and did not receive any. He went to § 87(2)(b) on § 87(2)(b). In addition to his complaint of arm pains, he came because he needed vaccine updates and a new prescription for steroid cream. He had pain in his right shoulder when he moved it, and tenderness in the shoulder. The diagnosis was pain in limb and he was given ibuprofen.

§ 87(2)(b) § 87(2)(b) did not receive any medical treatment.

NYPD Document(s)

The **Roll Call** for the 46th Precinct (see **Enclosure 19**) and the **Sprint** (see **Enclosure 20**) provided the following narrative of events (see **Enclosure 18**). At 183rd Street and Jerome Avenue in the Bronx at 7:30 PM on January 18, 2009, PO Gjeci, PO Perez, and PO Sampath responded to a complaint of officers outside. Also responding and arriving at 7:30 PM was PO Gonzalez and PO Kiryoko. At 7:31 PM Sgt. Camacho and PO Murphy responded and arrived. At 7:33 PM the SNEU team of PO Duncan, PO Castro, PO Reyes, PO Jerez, and PO Lopez responded and arrived. At 7:35 PM PO Fiol and PO Myers reported that they had made an arrest, which was clarified at 7:45 PM that four males and one female were arrested. At 7:52 PM the SNEU team reported that they needed an ambulance to the 46th precinct in regards to a minor injury to the hand of an officer.

Summons/Arrest for Incident and Disposition

- § 87(2)(b) arrest was not processed at the 46th Precinct (see **Enclosure 21**).
- § 87(2)(b) § 87(2)(b)'s arrest was not docketed in OCA. (see **Enclosure 22**)

Status of Civil Proceedings

- Neither § 87(2)(b) nor § 87(2)(b) § 87(2)(b) has filed a Notice of Claim with the City of New York as of December 9, 2009 with regard to the incident (see **Enclosure 23**).

§ 87(2)(b)

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Civilian(s) CCRB History (see **Enclosure 4**)

- This is the only CCRB complaint for both § 87(2)(b) and § 87(2)(b) § 87(2)(b)

Subject Officer(s) CCRB History (see **Enclosure 3**)

- PO Rafael Perdomo has been a member of the service for three years and there is one substantiated CCRB allegation against him: in Case No. 200807227, panel 6D substantiated a force allegation and recommended charges on August 28, 2009. There has been no NYPD disposition as of the writing of this report. Case No. 200809529, Case No. 200903161, and Case No. 200903235 are currently being investigated.
- PO Joseph Murphy has been a member of the service for one year and there are no substantiated CCRB allegations against him. Case No. 200901980, Case No. 200907614, and Case No. 200910736 are currently being investigated.

Conclusion

Identification of Subject Officer(s)

The § 87(2)(b) family did not make an official statement to the CCRB to provide officer descriptions, and therefore **Allegation A** has been pled against “Officers” and **Allegation B** has been pled against “An officer”.

§ 87(2)(b) identified PO Joseph Murphy and PO Rafael Perdomo from their nameplates, his descriptions match their pedigree information, and both officers acknowledged being at the scene. Therefore **Allegations C** and **D** have been pled against PO Murphy and **Allegations E** and **F** have been pled against PO Perdomo.

§ 87(2)(b) did not see the officers who allegedly kned him and kicked him when he was held against the van, ruling out any physical descriptions or a photo array to identify the

officers. None of the other civilian witnesses or officers stated that they saw any officers knee or kick § 87(2)(b). There were more than ten officers at the scene, and in their official statements, arrest documents, and memo books, none mentioned participating in the arrest of § 87(2)(b). A photo array was not shown to § 87(2)(b) because he claimed to have not seen the subject officers. Although § 87(2)(b) witnessed § 87(2)(b) arrest, was not available to view the photo array. The CCRB could not determine the subject officers for the alleged kneeling and kicking, and therefore it is recommended that **Allegation G** be pled against “Officers”.

The CCRB could not determine the identities of the officers who placed § 87(2)(b) under arrest without § 87(2)(b)'s cooperation in a photo array. PO Fiore said that he wrote the arrest report but did not participate in the arrest of § 87(2)(b) and was told the information by an officer whose identity he could not recall. None of the officers interviewed recalled interacting with § 87(2)(b). None of the memo books of the officers at the scene mentioned arresting § 87(2)(b). § 87(2)(b)'s descriptions of the officers were not specific enough to identify subject officers without a photo array. The CCRB could not reach § 87(2)(b) to arrange a photo array, and therefore it is recommended that **Allegation H** be pled against “An officer” and **Allegation I** be pled against “Officers”.

Investigative Findings and Recommendations

Allegation A: Officers used physical force against § 87(2)(b) and § 87(2)(b) at 183rd Street and Jerome Avenue

Allegation B: An officer spoke rudely to § 87(2)(b) at 183rd Street and Jerome Avenue.

The § 87(2)(b) family was not cooperative, § 87(2)(g)

Allegation C: PO Joseph Murphy spoke rudely to § 87(2)(b) at 183rd Street and Jerome Avenue and at the 46th Precinct Stationhouse

Allegation E: PO Rafael Perdomo spoke rudely to § 87(2)(b) at 183rd Street and Jerome Avenue

§ 87(2)(b) was inconsistent in his statements: in his initial statement to CCRB and his phone statement, he did not say any officers used discourteous language to him. However in his official statement he said that PO Murphy said to him, “Get the fuck off the corner” at 183rd Street and Jerome Avenue, and “I don’t give a fuck about your jacket” at the 46th Precinct Stationhouse, and that PO Perdomo said, “You know what motherfucker? Come here.” PO Murphy did not recall ever saying, “Get the fuck off the corner” or “I don’t give a fuck about your jacket”, and PO Perdomo did not recall ever saying “You know what motherfucker? Come here.” None of the witnesses – civilian or police – heard PO Murphy or PO Perdomo speak rudely to § 87(2)(b) even as the three civilian witnesses made other allegations against the police, including § 87(2)(b) stating that an officer spoke rudely to her. § 87(2)(b), § 87(2)(g)

Allegation D: PO Joseph Murphy used physical force against § 87(2)(b) at 183rd Street and Jerome Avenue

§ 87(2)(b) was consistent in stating that after he complied with PO Murphy’s direction to move, PO Murphy shoved him in the back, § 87(2)(b) told PO Murphy it was not necessary to shove him, and PO Murphy shoved him again. PO Murphy did not recall interacting with § 87(2)(b) and did not recall shoving him. Of all the witnesses – civilian and police – only § 87(2)(b)

§ 87(2)(b) witnessed § 87(2)(b) from the moment when he was on the corner and told to leave, to the moment when he was handcuffed against the police car. She said she saw a white male officer push § 87(2)(b) against a police car, but did not state she saw § 87(2)(b) pushed before that. PO Delacruz did not recall seeing PO Murphy at the scene, and said that he saw § 87(2)(b) brought to the van already in handcuffs. None of the other officers recalled seeing § 87(2)(b)

PO Murphy was engaged in dispersing a large crowd of civilians and he was interviewed about his interaction with one of those individuals eight months after the incident. In this context it is plausible that PO Murphy pushed § 87(2)(b) as part of dispersing a large crowd, which included § 87(2)(b). The preponderance of the evidence indicates that PO Murphy did push § 87(2)(b) as part of dispersing the crowd. By all accounts, officers were attempting to disperse a hostile crowd of more than fifty people, some of whom were fighting with police officers, were not complying with officers' directions to disperse, and in fact, according to PO Roque, were inciting the crowd to resist the police officers. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Allegation F: PO Rafael Perdomo used physical force against § 87(2)(b) at 183rd Street and Jerome Avenue

§ 87(2)(b) was consistent in stating that he was complying with officers' directions when PO Perdomo grabbed him and pushed him against the police car before handcuffing him. § 87(2)(b) said that § 87(2)(b) was complying by walking away when an officer grabbed § 87(2)(b) and slammed him against the van. § 87(2)(b) said that he did not notice how § 87(2)(b) was taken to the van, but he saw him being detained against it. PO Perdomo, eight months after the incident, said that he did not recall interacting with § 87(2)(b). PO Perdomo and PO Delacruz said that the individual who PO Perdomo brought to the police van was already in handcuffs, that PO Perdomo did not grab the individual and push him, and that the individual was compliant and there was no struggle to move him into the police van. No officer – in CCRB statements, memo books, or arrest reports – described the circumstances of § 87(2)(b) arrest.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation G: Officers used physical force against § 87(2)(b) at 183rd Street and Jerome Avenue

The CCRB could not identify the officers who allegedly kned and kicked § 87(2)(b) and § 87(2)(g)

§ 87(2)(g)

Allegation H: An officer used physical force against § 87(2)(b) § 87(2)(b) at 183rd Street and Jerome Avenue

Allegation I: Officers used physical force against § 87(2)(b) § 87(2)(b) at 183rd Street and Jerome Avenue

§ 87(2)(b) was not available to view to a photo array to identify the subject officers, and § 87(2)(g)

§ 87(2)(g)

Team: _____

Investigator: _____

Signature

Print

Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date